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**Director's Office
Office of Patent Publication**

**KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204**

In re Application of :
RICHARDS, ROBERT F. et al. :
Application No. 10/033,353 :
Filed: October 25, 2001 :
Attorney's Docket No. 4630-61498 :

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 C.F.R. § 1.181, received in the United States Patent and Trademark Office (USPTO) on October 28, 2005 for the above-identified Application.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The Notice of Rescinded Abandonment (Notice) mailed November 8, 2005 (typo error on Notice indicates mailing date as 11/8/09) is **VACATED**.

The application was held abandoned for applicant's failure to timely pay the issue fee and publication as required in the Notice of Allowance and Issue Fee Due, mailed April 7, 2005, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on October 13, 2005.

Petitioner states that on January 14, 2005, the applicants paid the issue fee and publication fee by check. Also, that on February 7, 2005, the applicants petitioned for withdrawal of the application from issuance under 37 CFR 1.313(c) to allow consideration of additional prior art reference. Petition also acknowledges receipt of a Notice of Allowability and Notice Of Allowance and Fees Due mailed April 7, 2005.

On February 11, 2005 the Office granted the applicants Petition To Withdraw Application From Issuance under 37 CFR 1.313(c). The Decision Granting Petition advised (bold print) the following:

Petitioner is advised that the issue fee paid on January 18, 2005 in the above-identified application cannot be refunded. If however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

And, further noted in the footnote in part that "The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85 (b)....

Also, Petitioner appears to not have read the bold text in the new Notice of Allowance and Fee(s) Due, which states:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

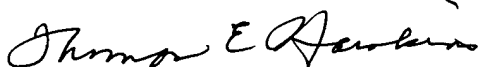
Failure to submit the PTOL-85B, Fee(s) Transmittal resulted in the proper abandonment of the application.

Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires relating to this matter may be directed to the Office of Petitions at 571-272-3282.



Thomas E. Hawkins
Paralegal Specialist
Office of the Director
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